MC/21/2063

Date Received:	12 July 2021
Location:	Former Cuxton Pit No. 2 Roman Way Strood ME2 2NU
Proposal:	Construction of a (Class E(a)) retail store with associated parking, access, servicing and landscaping.
Applicant	Lidl Great Britain Ltd Mr Adam Forsdick
Agent	RPS Consulting Services Ltd Mr Chris Tookey 2 Callaghan Square Cardiff CF10 5AZ
Ward:	Strood South Ward
Case Officer:	Jenny Hill
Contact Number:	01634 331700

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 5th April 2023.

Recommendation - Approval subject to:

A. The applicant entering into a legal agreement under the terms of Section 106 of the Town and Country Planning Act 1990 to secure a contribution of £28,620 to mitigate against the loss of Open Mosaic Habitat on the site.

B. And the following conditions:

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site Plan ref: AD_110 rev B.
Proposed Building Plan ref: AD_111
Proposed Roof Plan ref: AD_112
Proposed Elevations ref: AD_113
Proposed Site Plan - Boundary Treatments ref: AD_114 rev A
Proposed Site Plan - Finishes ref: AD_115 rev B.
Proposed Levels ref: SD_700 rev B.
Proposed Site Sections - 1 of 2 ref: SD_710
Proposed Site Sections - 2 of 2 ref: SD_711
Typical External Works Plan ref: LD(14) SP-03 rev B

Reason: For the avoidance of doubt and in the interests of proper planning.

Uses and Floorspace

3 The proposed Class E(a) Use (Retail) hereby permitted shall remain in that use and no other Class E uses within Schedule 2, Part A, Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended) shall be carried out unless planning permission has been granted on an application relating thereto.

Reason: To enable the Local Planning Authority to control such development in the interests of neighbouring and occupier amenity in accordance with Policy BNE2 of the Medway Local Plan 2003.

4 The gross floor area of the retail store hereunder approved (Unit A) shall not exceed 2,278 sq. M gross, and the total net sales area shall not exceed 1,413 sq. M net.

Reason: To safeguard the vitality and viability of existing retail centres and having regard to Policy R13 of the Medway Local Plan 2003 and Paragraph 92 of the National Planning Policy Framework 2021.

5 No more than 20% of the net sales area of the unit herein approved shall be used for the sale of comparison goods and at no time shall more than 3,500 individual lines of goods be sold from the retail unit hereby permitted.

Reason: To safeguard the vitality and viability of existing retail centres and having regard to Policy R13 of the Medway Local Plan 2003 and Paragraph 92 of the National Planning Policy Framework 2021.

6 The use of the unit hereby approved shall only be permitted to open for trading between the hours of 08:00 and 22:00 Monday to Saturday and National Holidays and 10:00 to 17:00 on Sundays.

Reason: In the interests of residential amenity.

Appearance

7 No development above slab level shall take place until detailed drawings (at a scale of at least 1:20) have been submitted and approved that show details of the ridge, eaves, verge, dormers, brick bonding & joint types, mortar colours, scheme colourways, entrance recess soffits, solar panels & brackets, balcony structures, balustrades, handrails, parapets & cappings, balcony recesses, window and door cills – jambs – heads, ground connections, wall plane changes, junctions at material changes, visible flashings, roof vents, electricity cupboards, waste enclosures, boiler and other flume placements. The detailed drawings should also demonstrate all finished floor levels and how they relate to corresponding land levels and external treatments across the site. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

8 No development above slab level shall take place until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the appearance of the development is satisfactory and without prejudice to conditions of visual amenity in the locality, in accordance with Policy BNE1 of the Medway Local Plan 2003.

9 Prior to the commencement of any development, full details of all retaining walls, any underbuild, site levels including landscaped areas and finished floor levels in relation to the units, shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be undertaken in accordance with the proposed details and levels as approved.

Reason: To ensure a satisfactory external appearance in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

10 The development herein approved shall not be occupied until details of the refuse storage arrangements, including provision for the storage of recyclable materials, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved refuse storage arrangements for that building are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

Landscaping

11 No development above slab level shall take place until a Soil Resource Survey has been submitted to and approved in writing by the Local Planning Authority that confirms analysis of the condition of existing site topsoil, subsoils, and its appropriateness for landscape use; the sourcing, quality and use of imported material; with outline recommendations for the stripping, stockpiling, remediation, amelioration, movement, profile and use of soils, relative to the planting proposals. The development shall be undertaken in accordance with the approved details.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

12 Notwithstanding the submitted hard and soft landscape details, including the Detailed Soft Landscape Proposal (drawing no. JSL4151-RPS-XX-XX-DR-L-

9001 rev P05) and the Typical Tree Pit Detail (drawing no. JSL4151-RPS-XX-XX-DR-L-9002 rev P03), no development shall commence until full details of the following have been submitted to and approved in writing by the Local Planning Authority.

I. Plans and information providing details of lighting (including cable routes), services (including drainage) and signage overlayed on the Detailed Soft Landscape Proposal.
II. Details for the design and specification of tree planting specific to each proposed tree to enable their successful establishment and independence in the landscape. Information should include details for the planting environment including calculated soil volume for the proposed trees, shrubs and hedging, incorporating tree cells where required to achieve the necessary soil volumes; soil build-up information (avoiding the use of tree sand); and tree support and a tie specification that does not include the use of a crossbar.
III. A timetable for implementation of soft landscaping and maintenance thereafter to ensure independence in the landscape.
IV. Details, including sections through to the carriageway, demonstrating the viability of retained soft landscaping (hedgerows and trees) growing on and adjacent to the north west site boundary and its effectiveness to act as a screen; future maintenance proposals, including how they will be secured, to replace or supplement any parts of the hedgerow or trees that fail, or no longer provide a screen between the development hereby approved and the carriageway to the north west.

The development shall be implemented in accordance with the approved details and timetable and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

CEMP

13 Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan shall include amongst other matters details of hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out at all times in accordance with the approved Construction Environmental Management Plan, unless any variations are otherwise first submitted to and approved in writing by the Local Planning Authority.

Reason: In order to minimise the impact of the construction period on the amenities of local residents with regard to BNE2 of the Medway Local Plan 2003.

Transport

14 Prior to first occupation of the retail unit, the area shown on the submitted layout as vehicle parking space shall be provided, surfaced and drained in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking and in accordance with Policy T13 of the Medway Local Plan 2003.

15 Prior to first occupation of the retail unit details of secure cycle parking provision for a minimum of 10 bicycles shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be implemented in accordance with the approved details before the retail unit is first occupied and shall thereafter be retained.

Reason: To ensure the provision and permanent retention of bicycle spaces in accordance with Policy T4 of the Medway Local Plan 2003.

16 No development above slab level shall take place until details of the provision of 4 electric vehicle charging points along with a parking management plan to increase the number of charging points required to 12 after three years have been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained.

Reason: In the interests of sustainability in accordance with paragraph 112(e) of National Planning Policy Framework 2021.

17 No part of the development hereby approved shall be occupied until the proposed physical improvements as shown on Drawing SCP/200289/SK12 rev A and SCP/200289/SK100 rev B have been fully implemented and made operational under the terms of an agreement under section 278 of the Highway Act 1980. The above listed works shall be implemented in full and made operational prior to the occupation of the Retail unit.

Reason: In the interest of highway safety and incompliance with Policy T1 and T2 of the Local Plan.

18 No development above slab level shall take place until details for the relocation of the Royal Mail post box have been submitted to and approved by the Local Planning Authority. The post box shall be relocated as approved prior to first occupation of the retail unit.

Reason: In the interest of highway safety and incompliance with Policy T1 and T2 of the Local Plan.

19 The Travel Plan Ref: SCP/200289/TP/02 (dated June 2021) shall be implemented prior to the first occupation of the development. Thereafter it shall be reviewed annually in agreement with the Local Planning Authority and shall be maintained.

Reason: To ensure the sustainable transport objective related to the development of this site and to reduce potential impact on the surrounding area in accordance with Policy T14 of the Medway Local Plan 2003.

20 No commercial goods shall be loaded, unloaded, stored or otherwise handled and no vehicles shall arrive or depart, within the application site outside the hours 07:00 to 21:00 Monday to Saturday and 08:00 to 18:00 on Sunday and Public Holidays.

Reason: To ensure that the development does not prejudice the amenities of neighbouring property in accordance with Policy BNE2 of the Medway Local Plan 2003.

21 The use of the development hereby permitted shall not commence until a Service Delivery Plan has been submitted to and approved in writing by the Local Planning Authority. The Service Delivery Plan shall include details of the number, frequency and times of deliveries and collections from the premises and the noise impact. The use shall operate in accordance with the approved Service Delivery Plan.

Reason: To ensure that the development does not prejudice conditions of amenity and highway safety in accordance with Policies BNE2 and T1 of the Medway Local Plan 2003.

<u>Contamination</u>

22 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater.

The risk assessment shall contain details of proposed monitoring to be undertaken pre-, during- and post-piling activities, and on contingency plans should elevated concentrations of any contaminants be identified. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

23 Prior to the commencement of development, a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 174 of the National Planning Policy Framework.

24 No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, including risks to groundwater, whether or not it originates on the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved by the Local Planning Authority prior to the commencement of development. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination.
(ii) an assessment of the potential risks to:
- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

25 No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

26 No development shall take place (other than development required to enable the remediation process to be implemented) until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given not less than two weeks written notification prior to the commencement of the remediation scheme works.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted to and approved in writing by the Local Planning Authority prior to the bringing into use of the development.

Reason: Required before commencement of development to avoid any irreversible detrimental impact on human health and/or water courses as a result of the potential mobilising of contamination and in accordance with Policy BNE23 of the Medway Local Plan 2003.

27 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 25, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 26, which is subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works set out in condition 26; are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 26.

Reason: To ensure that the development is undertaken in a manner which acknowledges interests of amenity and safety in accordance with Policy BNE23 of the Medway Local Plan 2003.

Drainage

28 No drainage systems involving the infiltration of surface water drainage into the ground is permitted other than with the prior written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 174 of the National Planning Policy Framework.

29 No development shall take place until a scheme showing details of the disposal of surface water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. Those details should be submitted in conjunction with the site Landscape Plan, and shall include (if applicable):

i. a timetable and construction method statement for its implementation (including phased implementation where applicable).
ii. appropriate operational, maintenance and access requirements for each sustainable drainage component.
iii. proposed arrangements for future adoption by any public body, statutory undertaker or management company.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of NPPF.

30 Prior to occupation (or within an agreed implementation schedule) a signed verification report carried out by a qualified drainage engineer (or equivalent) must be submitted to and approved in writing by the Local Planning Authority to confirm that the agreed surface water system has been constructed as per the agreed scheme and plans. The report shall include details and locations of critical drainage infrastructure (such as inlets, outlets and control structures) including as built drawings, and an operation and maintenance manual for the unadopted parts of the scheme as constructed.

Reason: This condition is sought in accordance with paragraph 165 of the NPPF to ensure that suitable surface water drainage scheme is designed and fully implemented so as to not increase flood risk onsite or elsewhere.

31 No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site

clearance operations) have been submitted to and agreed in writing by the local planning authority in consultation with the Lead Local Flood Authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

The approved CSWMP shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:

i. Temporary drainage systems.
ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses.
iii. Measures for managing any on or offsite flood risk.

Reason: To manage surface water during and post construction and for the lifetime of the development as outlined at Paragraph 165 of NPPF.

Air Quality

32 No development shall take place until an Air Quality Emissions Mitigation Assessment and Statement has been submitted to and approved in writing by the Local Planning Authority. The Mitigation Assessment and Statement shall be prepared in accordance with the Medway Air Quality Planning Guidance and shall provide full details of the measures that will be implemented as part of the development to mitigate the development related road transport emissions. The mitigation to be provided shall be demonstrated to be equivalent to, or greater than, the total damage cost value calculated as part of the Air Quality Mitigation Assessment. The Mitigation Statement shall include full details of all mitigation to provided. The development shall be implemented, and thereafter maintained, entirely in accordance with the measures set out in the approved Mitigation Statement.

Reason: Required prior to commencement of development to ensure the adequate protection of health and amenity of the surrounding area in accordance with Policy BNE24 of the Medway Local Plan 2003.

Ecology

33 Prior to any works commencing within the site a detailed reptile mitigation strategy must be submitted to and approved in writing by the Local Planning Authority. It must include the following:

- Overview of the mitigation required.
- Detailed methodology to implement the mitigation.
- Timing of the mitigation.
- Details of who will carry out the mitigation.
- Map showing the reptile receptor site location.
- Information demonstrating that the receptor site is sufficient to support the translocated reptile population.

- Enhancements required for the reptile receptor site and demonstrated on map.
- Details of management required for the receptor site and who will implement it.

The works must be carried out as approved.

Reason: In order to avoid any irreversible detrimental impact on protected species and in accordance with Policies BNE37, BNE38 and BNE39 Medway Local Plan 2003.

34 On completion of the reptile mitigation, a letter must be submitted to the Local Planning Authority demonstrating that the mitigation was carried out as agreed in Condition 33.

Reason: In order to avoid any irreversible detrimental impact on protected species and in accordance with Policies BNE37, BNE38 and BNE39 Medway Local Plan 2003.

Lighting

35 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use together with a report to demonstrate its effect on bats and the designated Strood Local Wildlife Site has been minimised. Any external lighting shall be implemented in accordance with the approved details.

Reason: In order to limit the impact of the lighting on the surrounding landscape and wildlife and with regard to Policies BNE1, BNE5, BNE25, BNE34 and BNE39 of the Medway Local Plan 2003.

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

The proposed development involves the construction of a new Lidl foodstore (Class E(a) – Retail) with an area of 2,278 sq. M gross and a net sales area of 1,414 sq. M and ancillary servicing and storage areas. The site is land previously used for landfill as Cuxton Pit No. 2.

The proposed store is located to the northwest of the site. Customer car parking is located to the east and south of the proposed store, with servicing to the rear of the store. The proposed building would have a mono-pitched roof rising from approx. 4.9m at the north side of the building to approx. 7.0m towards the south side of the building. To the front of the building is a single storey flat roof projection above the entrance into the store and trolley storage area.

The proposed building meets Lidl's brand specification. The northeast elevation facing Roman Way incorporates full height glazing which wraps around to the southeast elevation and the customer entrance lobby. The elevations show white cladding walls, with grey rendered plinth beneath, and silver cladding for the roof.

Both pedestrian and vehicular access would be achieved off Roman Way via a new priority junction arrangement.

117 car parking spaces are shown including 6 disabled parking spaces and 9 parent and child spaces and 2 spaces provided with an electric charging station as shown on drawing number AD_110 rev B. 10 cycle parking spaces are also proposed.

Relevant Planning History

There is limited planning history relating to the application site, as set out below.

MC/02/0440	Change of use from landfill site (under restoration) to construction plant theme park (Diggerland) Martin Earl Work Pits 1 And 2 Decision: Approved Decided: 28 August 2002
MC/02/0439	Advertisement consent for installation of a non-illuminated, pole mounted, entrance sign (7m x 1.2m) Martin Earl Work Pits 1 And 2 (off Roman Way) Decision: Approved Decided: 21 October 2002
MC/05/0212	Retrospective application for change of use from landfill site (under restoration) to construction theme park. Martin Earl Work Pits 1 & 2 Cuxton Road Decision: Refused Decided: 15 June 2006
MC/21/3354	Town and Country Planning Act (Environmental Impact Assessment) (England and Wales) Regulations 2017 (as amended) - request for a screening opinion for construction of a (Class E(a)) retail store with associated parking, access, servicing and landscaping. Decision: EIA not required. Decided: 9 December 2021

Representations

The application has been advertised on site and in the press and by individual neighbour notification to the owners and occupiers of neighbouring properties.

7 letters have been received from local residents, objecting for the following reasons:

- Concern about traffic at Medway Gate roundabout to enter Roman Way and Cuxton Road which already gets congested.
- The proposed store will cause traffic jams for residents wishing to use Roman Way for travel to and from Strood.
- Concerned about the additional traffic that will be created at the roundabout.
- Already a large volume of traffic using the road from the motorway into Strood including large HGV vehicles.
- Volume of traffic will increase substantially with the addition of a shop – workers and visitors/customers.
- Public transport links are weak - the buses are not frequent and do not meet with the trains from Strood so question whether suggested staff use of public transport/walking/cycling is realistic.
- A228 cannot cope with existing traffic.
- No need for new supermarket.
- Question what is going to be done to ease traffic as more homes have been approved at Temple Wharf.
- Increase in traffic on Cuxton Road will result in greater air, noise and light pollution.
- Most people will access the store by car, reflected in number of car parking spaces.
- Unlikely anyone will walk or cycle for a weekly shop.
- Other suitable alternative brownfield sites in Strood eg. abandoned riverside site.
- Roman Road site should be developed as a park, need to preserve open spaces in Strood.

24 letters have been received making the following comments in support of the application.

- Lidl are a great value supermarket.
- Lidl adhere to environmental policies, sell goods at a reasonable price and products are excellent quality.
- Specifically suited to those who travel by bike.
- Supermarkets in Strood offer a good variety for different budgets, proposed Lidl will be beneficial for those that live locally.
- Will bring jobs to the area.
- Lidl offers great pay rates.
- Competition with existing supermarkets will help keep costs down, which is important for many during the current ‘cost of living crises.
- More choice for families to do their regular food shopping.
- Beneficial to area to introduce a Lidl store.
- Will reduce the carbon footprint of many people in the area.
- Supermarkets in Strood are congested so the new store will help the town.
- Apart from Aldi, there are no low budget stores in Strood. The competition will be good for the area and give more options for where to shop.
- Increased business rates/taxes to the local authority.

- Support on grounds of convenience.
- Will enhance the attraction of Strood and bring commercial benefits for Strood and Rochester.
- Will benefit the local community.
- There is traffic congestion going through Strood and the location of this Lidl will help alleviate some of the traffic, especially for those coming from Cuxton and Halling.
- Deliveries to Lidl will reduce emissions in Strood town centre.

1 letter has been received neither supporting nor objecting to the application but making the following comments:

- 10 cycle parking spaces for staff and customers seems insufficient.
- Cycle parking is located out of sight of entrance doors and trolley bays, making cycles vulnerable to theft.
- Cycle parking cannot accommodate cargo cycles or other non-standard/adapted forms of cycle, so the design is not inclusive.

A letter has been received **on behalf of ALDI** objecting to the application, and a summary of the reasons for objecting is set out below:

- A retail impact assessment was not submitted to accompany the application.
- Do not accept that the NPPF (2021) should take precedence over Local Plan (2003) policy R13.
- The Council should require the applicant to submit an assessment of the likely impact on the health of, and investment within, nearby town centres.
- The sequential test only considers alternative sites in Strood and not other Medway towns. The catchment area of the proposed store will extend beyond Strood.
- Further work should be undertaken in order to provide a robust assessment of the suitability and availability of the former Civic Centre site and its potential to accommodate a food store.

The applicant has submitted the following comments in response to the letter of representation **on behalf of ALDI**, summarised below:

- Policy R13 is very dated and no longer in conformity with the NPPF. The NPPF test should be applied, which does not require an impact assessment for stores under 2,500 sq. M.
- The Council accepted this approach in relation to the application for a new Lidl on Medway Road in Gillingham (MC/20/1431).
- The 5-minute drivetime is an appropriate area of search for a discount food retailer. Rochester also considered and no sites identified.
- Not aware of any changes to the aspirations of the Council for the former Civic Centre site for a residential led scheme.

The applicant has also submitted a **Statement of Community Involvement**, which summarises the public consultation exercise that was undertaken when the application was submitted. Leaflets were sent out to households and businesses within a 5-

minute drivetime of the proposed development. Lidl received **1,104 response cards**, of which **87% were supportive** of the application.

The Environment Agency originally objected on the basis that the application did not demonstrate that the risk of pollution to controlled waters is acceptable and can be appropriately managed. However, following extensive discussions with the applicant and the submission of further technical details, the Environment Agency removed their objection and provided a number of conditions to be attached to any permission.

The Lead Local Flood Agency (LLFA) advise that the site falls within Flood Zone 1 (low risk) and the Council has no records of flooding affecting the site. No objections are raised, and approval recommended, subject to conditions.

Natural England has no comments to make on this application.

KCC's Ecology and Biodiversity Officer commented that additional information was required regarding the loss of Open Mosaic Habitat and the presence of reptiles on site. Following the provision of additional information and discussions with the applicant, it has been agreed that a contribution should be paid to mitigate against the loss of Open Mosaic Habitat, and a condition is required regarding a reptile mitigation strategy.

SGN provided plans and guidance on works near gas mains and Safe digging practices.

UK Power Network has provided records which show the electrical lines and/or electrical plant and a fact sheet which contains important information regarding the use of their plans and working around their equipment.

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this application have been assessed against the National Planning Policy Framework 2021 (NPPF) and are generally considered to conform. Where non-conformity exists, this is addressed in the Planning Appraisal section below.

Planning Appraisal

Principle of a Retail Unit at the Application Site

The application site is not within the urban area, as defined on the Proposals Map to the Medway Local Plan 2003. The site is outside the core retail area of Strood and not within an area allocated for retail or any other use and is an out of centre location in retail planning terms.

Policy R13 of the Local Plan relates to retail development outside of the main retail centres and requires such proposals to apply a sequential approach. Policy R13 states:

"Retail development outside the main retail centres will only be permitted when it is demonstrated that sites suitable for the proposed retail development are not available in accordance with the following sequence:

(i) within the Core Areas of Chatham, Strood, Gillingham and Rainham; then
(ii) on the edge (i.e., within 200-300 metres) of the core Areas of Chatham, Strood, Gillingham and Rainham; then
(iii) within or adjacent to one of the Local Centres, Village and Neighbourhood Centres as listed in policy R10. Development will be assessed in accordance with the following criteria:
(iv) the extent to which the proposal would undermine the strategy and objectives of the local plan to sustain and enhance the vitality and viability of existing centres; and
(v) whether the scale and type of retailing by itself, or cumulatively with other proposals, would have a detrimental impact on the vitality and viability of the Core Areas, Local Centres, Villages or Neighbourhood Centres; and
(vi) whether the location enables access by a choice of transport, including public transport.
(vii) the overall impact on travel, the likely changes in travel patterns and reduction in the reliance on the car."

The sequential approach to the siting of town centre uses is also set out in the current NPPF (2021) at paragraphs 87 and 88.

Paragraph 87 states that:

"Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."

Paragraph 88 states that:

"When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored."

Paragraph 011 of the National Planning Policy Guidance (NPPG) (Reference ID: 2b-011-20190722) provides guidance on how the sequential test should be used in decision-making and provides a checklist that sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test. The guidance states:

"… only if suitable sites in town centre or edge of centre locations are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering what a reasonable period is for this purpose, the

scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account."

The Sequential Test

A Sequential Test was included within the Planning and Retail Statement.

The applicant identified that for the type of Limited Assortment Discount (LAD) store operated by Lidl, these function as neighbourhood food stores serving relatively small local catchment areas, typically extending to around a 5-minute drivetime.

Whilst some limited flexibility is possible in terms of format and scale, case law and appeal decisions have confirmed that a realistic approach should be taken, and that considerable weight should be afforded to the requirements of the applicant when considering the suitability of sequentially preferable sites.

The sequential test looked at the following sites within this catchment area:

1. Strood Retail Park.
2. Former Civic Centre.
3. Tesco Site, Charles Street.
4. Strood Service Station and adjoining units, corner of Cuxton Road and London Road.
5. Temple Waterfront.
6. Wells Road.
7. Bligh Way.

In addition, at the request of the policy team, sites within Rochester were also considered and the following sites were assessed:

8. Medway City Estate.
9. Corporation Streetcar Park.
10. Blue Boar Lane Car Park.
12. Bardell Wharf.
13. Rochester Riverside.

Each of these sites were assessed in terms of their suitability and availability. Looking at each of these sites in turn and summarising the assessment's conclusion on each site:

Strood Retail Park

Strood Retail Park is an edge of centre site, located to the south of Strood's Core Retail Area. The retail park was allocated in Policy R4 of the Local Plan for retail uses, specifically: the replacement of the retail warehouses with a new food store of up to 6,000 sq. M gross and replacement retail warehousing south of the existing retail park. The retail warehouses were refurbished (with occupiers now including Poundland, Matalan, KFC, M&S, Next, B&M, Starbucks, Argos, Poundworld and The Gym) and a Morrisons food store was developed to the south. There are currently no vacant units of a size that could accommodate a Lidl store. The site is therefore not available.

Former Civic Centre

A development brief for Strood Waterfront was adopted in 2018. This includes the former Civic Centre site, an edge of centre 3 ha site to the southeast of Strood's Core Retail Area. The development brief identifies the site for residential led mixed-use development to meet the high demand for housing. The brief identifies that, in addition to residential and public open space, complementary uses that will be appropriate for the site are uses that drive community access to the waterfront, support or increase vitality and make the best use of the waterfront including the remarkable views. For the purpose of the illustrative masterplan these include commercial, commercial leisure and retail uses (as continuation of existing ground floor retail parade along west side of High Street).

The Illustrative Masterplan for the former Civic Centre area includes 512 apartments and fifty-two houses and includes small shop units at the junction of Esplanade to connect the development to the existing shopping parade along the west of the High Street. The Illustrative Masterplan suggests that as an alternative to residential uses, commercial uses could be included facing onto Rochester Bridge with more active commercial leisure uses (cafés and restaurants) on the ground level looking across the river to further enliven the central public space and this stretch of the High Street and help attract people across from Rochester.

The Strood Town Centre Masterplan (2019) identifies that the site is highly suitable for residential, and leisure uses. Flood risk is identified as an issue, but works are underway. The Masterplan shows an element of ground floor commercial uses within the former Civic Centre site, along the High Street. The Masterplan provides estimates of the quantum of development within key sites, based on the illustrative masterplan. This notes that all areas are approximate and based on the current concept plan layouts as illustrated in this report, and these will be subject to change through design development and coordination. For the former Civic Centre site, the Masterplan suggests the total commercial floorspace, which includes retail, leisure and f&b as well as office use, would be 1,288 sq. M (GEA), which is just over half of the floorspace of the proposed Lidl.

The Masterplan identifies that redevelopment of the former Civic Centre site is likely to fall with 'Phase 3' (2031 to 2035). Sites which fall into Phase 3 are those which have a significant number of barriers which will impede development delivery.

A large food store with surface level car parking would be different to the scale and type of retail/commercial uses envisaged in the Strood Waterfront development brief and Strood Town Centre Masterplan. The Council's Regeneration department has confirmed that the site is still required as an important housing site that will contribute towards the Council's housing supply.

In terms of suitability, the site is large enough to accommodate the proposed Lidl store. However, developing part of the site for a LAD food store would be inconsistent with the aspirations for the wider residential led redevelopment of the site, which incorporate a small element of commercial floorspace. The site is also not considered

to be suitable for development for a LAD food store, as piecemeal development of the site could prejudice the future residential development of the site.

Tesco Site, Charles Street

The Tesco site is an edge of centre 1.2ha site to the west of Strood's Core Retail Area. including the existing Tesco store and car park and Commercial Road works site. Within the Strood Town Centre Masterplan (2019) it is identified that this site could be suitable for mixed use commercial and residential development, with an opportunity to provide higher intensity commercial space than existing. The Masterplan identifies a replacement smaller food store with associated parking for the Tesco site (indicative floorspace of 1,387 sq. M GEA). The Masterplan suggests the site could be developed in 'Phase 2' (2025-2030), and that redevelopment of the area could unlock permeability to the south west of the town centre and in addition to new roads, a new pedestrian path would bisect the block providing a route from Commercial Street and the High Street to the heart of a new residential neighbourhood.

In terms of availability, Tesco is currently occupying the store, and there is no indication that Tesco intends to close the store and no planning applications have been submitted to date. As part of the potential redevelopment, the Masterplan envisages a smaller food store on the site, which would not be suitable to accommodate the proposed Lidl, even applying some flexibility.

Strood Service Station and adjoining units, corner of Cuxton Road and London Road

Two adjacent edge of centre sites are identified as potential development opportunities in the 2019 Masterplan at Cuxton Road / London Road, to the west of the Core Retail Area. The sites extend to approximately 0.7ha and are occupied by a petrol filling station, used car dealership and several other automotive businesses including a Halfords Autocentre. The Masterplan suggests that the sites could be suitable for mixed use development, with an indicate commercial floorspace of 909 sq. M GEA and forty-six residential units.

An application has been submitted for the service station part of the site (ref. MC/21/3055) for redevelopment of the existing Petrol Filling Station and surrounding land to provide up to a five-storey building to comprise forty-eight residential units (Use Class C3) with ground floor commercial space (Use Class E) (415 sq. M).

The site is not currently available. The combined sites are too small to accommodate the proposed Lidl. The application has a resolution to approve subject to a S106. The approved scheme shows a limited amount of commercial floorspace within small units which would not be suitable for the proposed LAD store.

Temple Waterfront

The 2009 Strood Town Centre Masterplan included the out of centre Temple Waterfront site which lies between Roman Way and Knight Road. The masterplan identifies the area as being 27.2 ha with capacity for 620 dwellings, 10,300 sq. M of employment space, 1,800 sq. M of retail/leisure and 200 sq. M of 'other' uses. A site-specific development brief for Temple Waterfront was adopted as a supplementary

planning document in October 2006. Housing development has already taken place in the southern part of the site, accessed via Roman Way past the application site. The development brief sought to deliver around six hundred dwellings and a net increase of 15,000 sq. M of employment space, together with community uses which should include a local centre as a focus for the development. The brief states that the local centre should provide a small convenience store of around 500 sq. M and be capable of accommodating other local retail outlets and other supporting facilities.

Outline planning permission was granted under MC/09/0417 for mixed uses including up to 1,800 sq. M of retail floorspace (use classes A1-A5). Reserved matters for Phase 1A including 210 dwellings and 120 sq. M of retail/commercial space was approved in June 2017 under MC/16/0600 and is under construction. Reserved matters for Phase 2 to provide 132 new dwellings was approved in May 2022 (MC/21/2588).

The outline planning permission has now expired and as such no more development can come forward as part of this planning permission, as was originally anticipated.

The reserved matters submission for Phase 2 provided evidence indicating that there is no demand for commercial/office or retail provision at Temple Waterfront.

The site is therefore no longer going to deliver any retail floorspace and is not suitable or available to accommodate the proposed Lidl store.

Wells Road

Wells Road local centre comprises two purpose-built blocks of retail units with two floors of flats above, providing nine outlets in total. The centre is run down and there are several vacant units, but it is mostly in active use. If redeveloped, the centre could potentially be large enough to accommodate the proposed Lidl store. However, as it is still partly in use and would require land assembly it is currently not available.

Bligh Way

Bligh Way local centre is a block of nine retail units with residential above that includes Morrisons Daily, McColls and Premier convenience stores. The centre is run down but still trading well. As it is still in use and would require land assembly it is currently not available. In addition, if the whole centre were redeveloped, it would be too small to accommodate a LAD store.

Medway City Estate

The applicant looked at Plot 1 on the Medway City Estate. There was previously a part implemented planning permission for a Park & Ride and a Sainsbury food store of 9,354 sq. M gross floorspace. However, the Sainsburys store was not built, and planning permission was subsequently granted (on appeal) under MC/18/1818 for a mixed development of four retail units (totalling 5,237 sq. M), four trade counter/B8 units (totalling 1,856 sq. M) and a drive-thru restaurant in September 2019. Condition 17 of the Inspector's decision restricted Unit 1 to use by a LAD store of no more than 1,971 sq. M gross. This scheme was not progressed, and permission (MC/19/1748)

was granted in December 2019 for eight B2/B8 employment units totalling 5,237 sq. M. This has now been implemented and the site is no longer available.

Corporation Street Car Park

This site extends to approximately 3,500 sq. M and is a public surface level car park owned by the Council that provides parking for 162 cars, located on the edge of the town centre. It is the main car park serving Rochester Railway Station. In terms of its suitability to accommodate the proposed LAD store, the site is not large enough. In terms of its availability, there is nothing to suggest that the Council is considering the disposal of this car park, which currently performs an important function serving the town centre and the railway station. The site is not suitable or available to accommodate the proposed development.

Blue Boar Lane Car Park

This site extends to approximately 4,000 sq. M and is a public surface level car park owned by the Council, located within the core shopping area. Blue Boar Lane car park is too small to accommodate the proposed store and there is nothing to suggest that it is available for redevelopment. It is one of the main car parks serving the town centre. The site is not suitable or available to accommodate the proposed development.

Bardell Wharf

This site is located on the edge of the town centre, extends to approximately 4 ha and includes several plots of land fronting on to Corporation Street, High Street and Bardell Terrace. The site is large enough to accommodate a LAD store, however planning permission was granted on 5th December 2019 under application MC/19/0038 for a mixed-use development comprising 331 residential units, 1,894 sq. M of retail/ commercial space, parking and landscaping. The retail floorspace comprises small units on the ground floor, none of which would be large enough to accommodate a LAD store. Rochester Independent College has taken a large proportion of the housing element for student accommodation. Development has started on site. The site is not available or suitable to accommodate the proposed development.

Rochester Riverside

Policy S7 of the Local Plan designates land east of the railway line along the river, for comprehensive development to provide 1,500-1,800 new dwellings; a primary school; hotel; leisure facilities and B1/B2 employment. A masterplan/development brief for the area was adopted in September 2014. The area is out-of-centre in policy terms, being separated from the town centre core shopping area by the A2 and the railway line. The masterplan includes only a modest provision of local retail uses, including cafes and restaurants. Large scale retail, such as the proposed LAD store, are not mentioned and so would be contrary to the adopted masterplan. The site is not suitable to accommodate the proposed development.

Conclusions on matters of principle and sequential test

The application is not located within a core retail area, nor within any other area allocated for retail use. The Sequential Test included within the Planning and Retail Statement has been considered having regard to the provisions of (i) – (iii) of Policy R13 of the Local Plan, and paragraphs 81, 86 - 88 of the NPPF.

It is considered that the identified sites within Strood and Rochester have been appropriately assessed and it is concluded that there are no suitable sites within or on the edge of the core retail areas of Strood or Rochester that would be suitable or available to accommodate the proposed development.

The Need for a Retail Impact Assessment

Paragraph 90 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq. M of gross floorspace). This should include assessment of:

a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Paragraph 015 of the NPPG (Reference ID: 2b-015-20190722) also provides guidance on when the impact test should be used. It states that the impact test only applies to proposals exceeding 2,500 sq. M gross of floorspace unless a different locally appropriate threshold is set by the local planning authority. In setting a locally appropriate threshold it will be important to consider the:

- scale of proposals relative to town centres
- the existing viability and vitality of town centres
- cumulative effects of recent developments
- whether local town centres are vulnerable
- likely effects of development on any town centre strategy
- impact on any other planned investment.

As a guiding principle, impact should be assessed on a like-for-like basis in respect of that particular sector (e.g., it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with their most comparable competitive facilities. Conditions may be attached to appropriately control the impact of a particular use.

Where wider town centre developments or investments are in progress, it will also be appropriate to assess the impact of relevant applications on that investment. Key considerations will include:

- the policy status of the investment (i.e., whether it is outlined in the Development Plan)
- the progress made towards securing the investment (for example if contracts are established)
- the extent to which an application is likely to undermine planned developments or investments based on the effects on current/forecast turnovers, operator demand and investor confidence.

In setting the default threshold at 2,500 sq. M gross in paragraph 90 of the NPPF and paragraph 015 of the NPPG (Reference ID: 2b-015-20190722), it suggests that it is considered that retail units smaller than 2,500 sq. M are unlikely to have a significant adverse impact.

The current Local Plan does not state a threshold and given that the Local Plan was adopted in 2003 consideration must be given as to the weight that should be afforded to its retail policies, in particular Policy R13 of the Local Plan. Paragraph 219 of the NPPF states:

"However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to the degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

As outlined above, the Local Plan does not provide a locally set floorspace threshold which would require the need for a formal Retail Impact Assessment. Therefore, default threshold is 2,500 sq. M of gross floorspace and in these circumstances the submission of Retail Impact Assessment is not a requirement. Additionally, paragraph 91 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the considerations in paragraph 90, it should be refused. It does not say in the absence of an impact assessment the application should be refused.

The proposed Lidl store is 2,278 sq. M gross, which falls below the NPPF threshold for requiring a retail impact assessment.

The objection to the application submitted on behalf of ALDI stated that it is wrong to suggest that the lack of a locally set impact assessment threshold is a sign that the current national threshold is the only guide on this issue, and noted that the issue of impact assessment thresholds did not apply at the time of preparing, examining and adopting the current Local Plan, and this needs to be acknowledged and taken into account when determining this application.

The Planning and Retail Statement does not include an analysis of retail impact because the proposed store is below the NPPF minimum threshold. Whilst a significant adverse retail impact is unlikely to be a ground for refusal, proportionate

impact assessments are sometimes provided to assist planning authorities to weigh this issue in the balance with other material considerations, albeit this has not been provided by the applicant in this case. The Council has, however, accepted in determining other applications that there is no policy requirement for an impact assessment for proposals that fall below the NPPF threshold. Notwithstanding this, a high-level consideration of potential impact is considered later in this section.

The title of Policy R13 of the Local Plan is 'Retail Uses and the Sequential Approach' and does not explicitly set out requirements or guidance for retail impact assessments. Policy R13 states that development will be assessed in accordance with the following criteria:

(iv) the extent to which the proposal would undermine the strategy and objectives of the local plan to sustain and enhance the vitality and viability of existing centres; and
(v) whether the scale and type of retailing by itself, or cumulatively with other proposals, would have a detrimental impact on the vitality and viability of the Core Areas, Local Centres, Villages or Neighbourhood Centres; and
(vi) whether the location enables access by a choice of transport, including public transport.
(vii) the overall impact on travel, the likely changes in travel patterns and reduction in the reliance on the car.

The 'blanket' assessment of all out-of-centre retail development does not accord with the NPPF or NPPG. It is also worth noting that the 'test' for retail impact under policy R13 is lower than the equivalent 'test' set out under the more up to date NPPF. Part (v) of policy R13 refers to whether proposals "would have a detrimental impact on the vitality and viability of the Core Areas, Local Centres, Villages or Neighbourhood Centres". However, the test under the NPPF for a refusal on retail impact on the vitality and viability of town centres is only where there is a "significant adverse impact" (paragraph 90).

Policy R13 is not fully consistent with the NPPF, and as such, only limited weight can be afforded to the policy. Therefore, whilst acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of policy R13.

Notwithstanding the above, the commentary below considers the proposal against the criteria of policy R13, consistent with the approach that was taken in assessing the recent application for a Lidl store in Gillingham.

(iv) the extent to which the proposal would undermine the strategy and objectives of the local plan to sustain and enhance the vitality and viability of existing centres.

As noted above, the Strood Town Centre Masterplan (2019) has been produced which identifies potential options for development in the town centre. Following consultation, the document was approved by Cabinet on 17 December 2019 to be published as an

evidence base document for the preparation of the new Local Plan. The key objectives in the Masterplan in relation to retail are:

- Capture more linked trips from visits to the retail park and supermarkets.
- Support the economically healthy retail park model but improve typology in the long run.
- Diversification of uses, incorporating further community uses, services, leisure and workspace.
- Accommodate the market in a sustainable, long-term location.

The main site identified for increased retail floorspace in the Town Centre is the existing Retail Park. In the short term the Masterplan refers to creation of mezzanines to expand uses, while the longer-term aspiration is for the retail park to be redeveloped as a mixed-use scheme. There are no sites identified for provision of an additional food store within the Town Centre. The only explicit reference to a 'supermarket' is in relation to the potential replacement smaller food store on the Tesco site.

The proposed Lidl at Roman Way would not undermine the strategy or objectives of the Strood Town Centre Masterplan.

(v) whether the scale and type of retailing by itself, or cumulatively with other proposals, would have a detrimental impact on the vitality and viability of the Core Areas, Local Centres, Villages or Neighbourhood Centres.

The Core Areas referred to in this policy comprise Chatham, Strood, Gillingham and Rainham. It is recognised that the type of discount stores operated by Lidl (and Aldi) generally serve relatively small local catchment areas, equating to around 5 minutes drivetime. Due to the nature and size of the development Chatham, Gillingham and Rainham are not within the likely catchment area.

Generally, facilities will compete on a like for like basis, and it is expected trade to primarily be drawn from the existing supermarkets, particularly alternative discount operators. Existing Lidl stores include the new store at Gillingham, and further afield at Gravesend and Ditton. Aldi has existing stores in Strood, Gillingham and Chatham. Strood is also served by the existing Tesco, Asda and Morrisons supermarkets and an M&S food hall. The proposed Lidl store will add to the choice of facilities available to local residents and complement the existing retail offer. The sequential test above confirmed that there are no sites in or on the edge of Strood town centre that would be suitable or available to accommodate the proposed development.

However, consistent with the Council's approach elsewhere, it is appropriate to include conditions that limit the amount of comparison goods floorspace, restricting the store to a maximum of 3,500 product lines, and prevent an expanded retail offer within the store. Due to the limited range of goods that would be on offer (grocery products only), compared to the much wider range of goods available in Strood, convenience goods, comparison goods and a range of services falling within use Classes E and Sui Generis (Formally Classes A2, A3, A4 and A5) there is likely to be only limited impact on the Town Centre.

There are no other forthcoming proposals or extant permissions, which, cumulatively, with the scale and type of retailing of this development, would have a detrimental impact on the vitality and viability of the Core Areas, Local Centres, Villages or Neighbourhood Centre.

(vi) whether the location enables access by a choice of transport, including public transport.

The accessibility of the site is considered below in the section relating to highways. The application proposes pedestrian access to the site and provides cycle parking spaces, to encourage walking and cycling to the store. The site is located close to bus stops, and a Travel Plan will be implemented that aims to encourage staff to use public transport.

(vii) the overall impact on travel, the likely changes in travel patterns and reduction in the reliance on the car.

The forecast trip generation of the proposed development is considered below in the section relating to highways.

In summary, having assessed proposal against all criteria of Policy R13 of the Local Plan it is concluded that the proposal is in general accordance with the policy. Therefore, the proposal complies with Policy R13 of the Local Plan and the relevant parts of the NPPF and NPPG in respect of assessment of retail impact.

Design, Scale and Visual Impact

Policies S4 and BNE1 of the Local Plan and paragraphs 126 and 130 of the NPPF supports high quality development with landscape mitigation where appropriate.

The site is located within an Area of Local Landscape Importance (ALLI), which extends to include Diggerland to the south of the railway and areas to the southwest, across the M2 (Policy BNE34). The site is within the Cuxton Brickfields ALLI, which the Local Plan summarises as follows:

"Location and character

Visually prominent area rising from marshes along River Medway up to the Kent Downs AONB. Includes former Cuxton Chalk Pits 1 and 2 now landscaped.

Adjacent land affected by M2/CTRL works will take time to recover, so protection of this landscape is important.

Function

Maintains the separation between Strood and Cuxton, helping to retain individual identity.

Contributes towards the setting of Cuxton Village.

Extremely prominent from A228, M2, CTRL, Medway valley railway and the river – when approaching or passing through the borough. Forms a gateway to the urban area to be preserved and enhanced. Forms a green backdrop to Medway Valley Park from across the river in Borstal and Rochester.

Creates a visual link and balance with the Kent Downs AONB on the other side of the river."

Policy BNE34 states that within the ALLIs defined on the Proposals Map, development will only be permitted if:

(i) it does not materially harm the landscape character and function of the area; or
(ii) the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape.

The policy states that development within an ALLI should be sited, designed and landscaped to minimise harm to the area's landscape character and function.

The character of the surrounding area is varied. The application site is bounded by Roman Way to the northeast, Cuxton Road to the northwest and the railway line to the southeast. Opposite the site across Cuxton Road is an area of landscape buffer beyond which is housing. Opposite the site across Roman Way is a light industrial development accessed off Norman Close. The new residential development forming part of the Temple Waterfront development is located to the southeast. Diggerland is located to the south of the application site, across the railway line.

Vehicular and pedestrian access to the application site is from Roman Way. The proposed food store is located in the northwestern part of the site, parallel to Cuxton Road. The Cuxton Road frontage is currently screened by an embankment. It is proposed, as part of this application, that the car park gradients will be amended to improve both pedestrian and vehicular access.

Although the site is a brownfield site with former use as a quarry and landfill, the site forms part of a green corridor for the south-western approach into Strood via Cuxton Road. The proposals present a change to the existing site topography, elevating the store upon a plateau that restricts opportunities for soft landscape treatment to the periphery of the site, often in the form of steep embankments.

The Design and Access Statement submitted with the application advises that the store will be built in accordance with Lidl's brand-new specification providing a lighter, more spacious sales area, with full height glazing to the front elevation, and with no suspended ceiling. The Statement sets out that proposed elevations have been considerately designed along the main aspects, providing activity and identity to the public frontages which:

1. Respond to the geometry and topography of the site.
2. Maintain adequate clearances and safe distances to existing site boundaries.
3. Respect the urban edge and remain in keeping with other developments in the area.
4. Provide easy and safe vehicular and pedestrian access to the existing highway.

The design of the proposal is considered to be appropriate for the location. The glazed entrance and elevation facing Roman Way will be the most visible frontage of the building. The proposed pedestrian accesses and pathways to the main entrance show a care for the design of this element. Pedestrian islands and marked pedestrian crossing safely and directly guide people from the access points to the door. Solar panels are proposed on the roof of the store. These are to be fixed as close and flat to the roof as possible, to minimise visual intrusion and maximize amount of energy generated.

A condition is recommended that will require detailed drawings to be submitted showing the details of the treatment and materials to be used for all elements of the proposed building.

There is a Royal Mail post box located on the western side of Roman Way, to the south of the proposed site entrance, as shown on the Proposed Site Plan (AD_110 rev B). The plan also shows a position for the relocated post box and a small lay-by to accommodate Royal Mail vans, between the site access and egress. The applicant's intention is to discuss the relocation of the post box with Royal Mail once planning permission has been granted, and a condition is recommended that requires submission and approval of details for the relocation of the post box.

Climate Change and Energy Efficiency

The Climate Change Statement submitted with the application advises that the following design features are proposed to increase the sustainability of the store:

- A sustainable surface water drainage system that incorporates attenuation tanks to alleviate discharge.
- PV panels on the roof to provide zero carbon energy.
- EV charging spaces to allow customers to charge electric/hybrid vehicles.
- Provision of covered cycle parking.
- Use of recycled materials in insulation and floor finishes.
- Use of water-based paints on steelwork.
- High efficiency LED lighting used both internally and externally.
- Internal lighting incorporates movement sensors.
- Dual flush toilets and sensor taps to reduce water consumption.
- A building management system that controls lighting through lux sensors.
- Policies to minimise waste – all operational waste is collected and returned to the distribution centre for recycling.

In terms of energy and carbon reduction, Lidl is focussed on cutting carbon emissions across all its stores and distribution centres, including through the use of photovoltaic panels on all new stores; continued investment in the latest refrigeration and lighting technologies to improve overall energy efficiency; and providing electric vehicle charging points at their stores to support customers in reducing their carbon footprints. The proposed store at Cuxton Road/Roman Way incorporates PV panels on the roof to supply zero carbon energy, and EV charging bays.

Landscaping

In terms of landscaping, the application was accompanied by a Tree Survey and Arboricultural Impact Assessment. Further information was requested in order to understand the proposed development and the resultant impact upon its setting. The route along Cuxton Road is a gateway into Medway with screening to the site afforded by existing landscaping, which should be retained. The main part of the site comprises poor quality scrubby grassland associated with its former landfill status.

A particular issue raised was the uncertainty regarding what effect the proposals will have on the retained northwestern boundary vegetation fronting Cuxton Road in the absence of detailed section information. Any proposals should seek to provide further native planting to reinforce the boundary.

Further sections were requested to clearly demonstrate the proposals as part of the wider context and include Cuxton Road, Roman Way and the railway line. Sections should also provide an accurate representation of the building and landscape proposals, whilst displaying existing and proposed topography.

Landscape proposals were also requested to demonstrate how the proposed development will be mitigated and how a biodiversity net gain can be achieved, which should include a general arrangement drawing; soft landscape proposals; planting plan and schedule; planting profile details (grass, shrub, understorey and tree planting environments).

It was also noted that there is an opportunity for the development to incorporate highway land adjacent to the roundabout and use it as part of a comprehensive approach to the landscape strategy, which could improve the setting for the scheme. However, this land falls outside of the applicant's control.

Detailed information was also requested to clearly demonstrate the interface of site proposals with the landfill capping layer, composition of imported fill material and the quality of existing / imported topsoil and subsoil for implementing soft landscape proposals, and tree pit planting details.

In response, the applicant provided Detailed Soft Landscape Proposals, together with further information regarding site levels, hard landscaping and tree pit details. Although the details submitted addressed most of the issues that had been raised, in the absence of additional section information through the landscaping area along the northern boundary, there remain concern about the threats to the soft landscape on the northwest boundary and its capacity to screen the development.

Therefore, before development commences, it will be necessary for the applicant to produce sections that continue through to the highway to the northwest to understand how this verge will function and whether or not soft landscaping will thrive if this application is approved. This is required as part of the proposed condition.

A Landscape Management Plan has also been submitted by the applicant. As part of the proposed landscape condition, an updated Landscape Management Plan will be required to be submitted and approved. This will need to include long term design

objectives, management responsibilities and maintenance schedules for all landscape areas. This is required in order to safeguard the visual amenities of the site and surrounding area, recognising that the site forms part of the designated Area of Local Landscape Importance.

In summary, it is considered that having regard to the nature of the site and its overall appearance, with the imposition of appropriate conditions, the scheme would be acceptable in and accord with Policy BNE1 and BNE34 of the Local Plan and Paragraphs 126 and 130 of the NPPF.

Amenity

Policy BNE2 of the Local Plan states that development should protect those amenities enjoyed by nearby properties and future occupants with regard to but not limited to loss of sunlight, daylight, outlook and privacy; as well as disturbance caused by noise, light, activity levels and traffic generation.

Noise

A noise assessment was submitted with the application that assessed the operational noise levels associated with the proposed Lidl store. The nearest noise sensitive receptors are considered to be residential properties along Oswald Drive, approximately 70m to the northwest of the site.

The noise assessment shows that the predicted specific sound levels generated by the development will not exceed the existing residual sound levels – operational noise during the day at the nearest sensitive receptors will be 5-8dB below the background level, which is indicative of a negligible adverse impact; during the night time period the levels are 31dB below background levels, again indicating a negligible impact.

Additional clarification regarding the operation of plant during the night has been provided and this satisfactorily addresses that issue.

Lighting

In terms of external lighting, a preliminary lighting design was submitted with the application. A sensitive lighting scheme is recommended to ensure the development does not significantly increase the amount of light around the site boundaries to minimise potential disturbance to bats, rather than an issue of impact on residential amenity.

Kent County Council's Ecologist noted that the proposed development is directly opposite Cuxton Pit No. 3, Strood Local Wildlife Site and no information has been providing assessing the impact the operational phase of the proposal will have on the LWS. As detailed within the submitted Preliminary Ecological Appraisal, the proposal will result in an increase in lighting therefore information must be submitted assessing the operational impact on the designated sites.

Lighting details will be required to be submitted and approved in writing by the Council prior to any installation of external lights to limit the impact of the lighting on bats and the designated Strood Local Wildlife Site.

In summary, it is considered that the scheme would be acceptable in amenity terms and accord with Policy BNE2.

Highways

Site Access

Policy T1 of the Local Plan states that proposals should not significantly add to the risk of road traffic accidents; and Policy T2 of the Local Plan states that proposals which involve intensification in use of an existing access will only be permitted where it would not be detrimental to the safety of vehicle occupants, cyclists and pedestrians or can be improved to a standard acceptable to the Council as Highway Authority. Paragraph 110 of the NPPF states that applications for development should provide safe and suitable access to the site for all users.

The application proposes access to the new store will be provided via the existing access off Roman Way, which will be upgraded to current highway design standards. A separate new egress will be constructed to the west of the access point, with vehicles leaving the site restricted to a left turn only. A new carriageway will extend from the access and off this will be a direct access into the store car park. Pedestrian footways into the site will be provided from Roman Way, along both the egress and access carriageways. Elements of new/improved footway are also proposed to the footway on Roman Way to the south of the application site and opposite the site access. The access and site layout has been designed to allow a 16.5m articulated HGV to be able to enter and exit the site, to make deliveries, in a forward gear. Details of the access/egress are shown on the Proposed Site Plan AD_110 rev B.

During the course of determining this application, Medway Council Highway Authority made clear to the applicants its concerns regarding the access arrangements for this site. It is noted that Paragraph 111 of NPPF states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

After further discussions, the applicants have attempted to overcome these concerns by providing additional information via Road Safety Audit (RSA) and additional technical notes. Drawing SCO/200289/SK12 Rev A outlined that the applicant proposed to install a Vehicle Activate Sign (VAS) and replace and expand the Anti Ski Surfacing along Roman Way.

The proposal has been designed to comply with guidance set out in Manual for Streets (subsequently updated under Manual for Streets 2) which outlines that 85th Percentile to be used.

The 85th percentile speed is defined as, *"the speed at or below which 85 percent of all vehicles are observed to travel under free-flowing conditions past a monitored point."*

Another way to consider this is the speed at which only 15% of traffic violate on average.

The applicants have completed two speed surveys, one dated in 2020 and another dated 2022. The surveys show a significant variation between recorded speeds and level of vehicle movements. No explanation has been provided regarding the speed variation except for its proximity to Covid conditions. The applicants highlight that the second survey demonstrates a 14% up lift, however many of the additional trips occur late evening with a comparison of the two surveys weekday average during the core day (8am to 8pm) seeing only a difference of 37 vehicle trips.

Drawing SCO/200289/SK12 Rev A indicates that a visibility splay of 54m can be achieved. Taking the 2020 speed survey, this would indicate any vehicles travelling above 31.75 mph would have inadequate visibility splays. It is considered that this would result in a considerable proportion of vehicles having inadequate splay (ranging between 15 to 18% or 453 – 688 vehicles day of vehicles per day). Therefore, whilst the Highway Authority concerns remain that the proposal could result in an unacceptable highway safety impact, based on the guidance outlined in the Manual for Streets to accommodate the 85th percentile, it is considered on balance that this impact would not be sufficient to warrant refusal of the application.

It should be highlighted that the Highway Authority suggested an alternative access arrangement that could easily be achieved. This would seek to provide a left turn in and left turn out (with ingress and egress locations staying as proposed) and would remove the above concerns regarding vehicles turning left into the site. However, the applicant has dismissed this solution, outlining it would not suit their customer base.

<u>Traffic generation and impact</u>

Policy T1 of the Local Plan states that proposals will be permitted where the highway network has adequate capacity to cater for the traffic which would be generated by the development and Policy BNE2 of the Local Plan states that development should protect those amenities enjoyed by nearby properties with regard to traffic generation.

Paragraph 104(a) of the NPPF states that:

"Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

a) the potential impacts of development on transport networks can be addressed".

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be unacceptable impact on highways safety, or the residual cumulative impacts on the road network would be severe.

The applicants have outlined that a Manual Classified Turning Count was carried out that identified PM peak between 16:15-17:15 and weekend peak 12:45 to 13:45. It should be noted that these turning counts have not been provided to the Highway Authority and the weekend peak would appear to be at odds to ATC counts referred to by the applicants' consultants (both along Roman Way and Cuxton Road) and the video survey provided.

The proposed scheme could generate approx. 213 vehicle trips per peak hour during the PM Peak on a weekday and approx. 260 during the weekend peak. As has been accepted by the Highway Authority with previous developments, some of the increased trips associated with the proposed Lidl store would be diverted from existing retail provision in the local vicinity (primarily supermarkets from Strood Town Centre) or would be passing by from other trips and would therefore not represent an increase of traffic in the town centre road network generally. The applicant predicts that 50% of the additional traffic would be linked/pass-by trips to the store therefore vehicles during the weekday peak could be 106 and at the weekend 130.

The applicants have undertaken capacity assessments at the site access and the Cuxton Road/Roman Way Roundabout. The junction modelling demonstrates that the access would not create any significant delays or result in an impact that would be deemed severe.

With regard to the Roman Way/Cuxton Road Roundabout, as the applicant's video survey demonstrates, the isolated modelling has over estimated capacity as queues currently back up from Darnley Road, Northcorte Road, Priory Road and Cuxton Road Roundabout into this Roundabout. However, given that this proposal may reduce trips heading towards Strood Town Centre, the Highways Authority advise that the inadequate modelling is not in itself considered to warrant refusal of the application.

<u>Parking</u>

Policy T13 of the Local Plan states that proposals will be expected to make vehicle parking provisions in accordance with the Council's adopted standard and paragraphs 104(b) and 104(c) of the NPPF state:

"Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

- *b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated.*
- *c) opportunities to promote walking, cycling and public transport use are identified and pursued."*

Paragraph 112(e) of the NPPF states that:

"Within this context, applications for development should:

- *e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations."*

Paragraph 108 of the NPPF relates to a clear and compelling justification in setting maximum parking standards for residential and non-residential development.

The site is proposed to have 117 spaces to serve the development which is in line with Medway's Parking Standards. Of these 6 would be for disabled users and 9 would be parent and child spaces. The applicant provided a parking accumulation survey to demonstrate that the parking is sufficient to meet the average demand. A total of 10 cycle parking spaces are proposed, which accords with the Council's Parking Standards.

2 spaces are provided with an electric charging station, as shown on the Proposed Site Plan AD_110 rev B.

In line with Medway Council's Air Quality Planning Guidance EC charging points should be provided for 10% of parking spaces, which would equate to 12 spaces. The Guidance accepts that this may be phased with 5% initial provision and the remainder at an agreed trigger level.

The applicant advised that Lidl's experience elsewhere is that at present the demand from their customers for EV charging can be adequately met with only 2 spaces and that 11 would be an over-provision that: a) would not be fully used; and b) would reduce the number of ordinary spaces required by the vast majority of their customers. However, the applicant agreed to increase the number of EV spaces to 4 and include the necessary infrastructure to allow additional spaces to be provided at a later date. This approach is in line with the recent permission for Lidl on Medway Road in Gillingham (MC/20/1431).

As a result, a condition is recommended to secure a phased approach to providing the required 10% of spaces (as is consistent with the AQ planning guidance. This would secure 4 active charging points being provided initially, with a further 8 provided by a date to be agreed in writing (12 points would meet the 10% requirement based upon 117 spaces in total).

Conditions are recommended to provide these parking spaces, electric vehicle charging points and cycle parking facilities prior to the occupation of the unit in the interest of highways safety and to make provision for alternative modes of transport in the form of cycling in accordance with Policies T1, T4 and T13 of the Local Plan and paragraphs 104(b), 104(c), 108 and 112(e) of the NPPF.

<u>Accessibility by Sustainable Modes of Transport</u>

Policy T14 of the Local Plan states that Travel Plans will be required for developments which require a transport assessment and Paragraph 104(c) of the NPPF goes on to say that development proposals should identify and pursue opportunities to promote walking and public transport use. Paragraph 113 of the NPPF states:

"All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a

transport statement or transport assessment so that the likely impacts of the proposal can be assessed."

In terms of accessibility, the site is near residential properties within the Strood area with shared footways/cycle paths providing safe routes to these residential areas to the development site. The applicants have proposed drop kerbs along Roman Way to facilitate crossings from those visitors from the new residential development to east (shown on drawing SCP/200289/SK100 rev B, submitted October 2021). Further improvements within the local vicinity include the construction of new areas of footway on Roman Way to the south towards the railway bridge and improvements to the footway opposite the site egress.

It is noted that bus stops along Cuxton Road are within reasonable walking distance to the site and therefore offer a realistic alternative to the private motor vehicle, particularly for staff.

To ensure that the benefits of the sustainable location are realised, a Travel Plan ref: SCP/200289/TP/02 (dated June 2021) has been submitted with the application, which deals with staff travel, and a condition is recommended to secure implementation and monitoring of the Travel Plan.

The improvements outlined above would be secured through the recommended condition to be implemented prior to the retail unit coming into use in the interest of highways and pedestrian safety and in accordance with Policies T1 and T3 of the Local Plan and paragraphs 104(c) and 113 of the NPPF.

<u>Conclusion to Highways Section</u>

On balance, whilst the Highway Authority remain concerned regarding the suitability of the access arrangements, given the proposal meets current highway guidance in terms of visibility splays, it is not considered a reason for refusal could be sustained and therefore no objection is raised regarding the proposal. Therefore, it conforms to Policies BNE2, T1, T2, T3, T13 and T14 of Medway Local Plan and Paragraphs 104(a)-(c), 108, 110, 111, 112(e) and 113 of NPPF 2021.

Contamination

Policy BNE23 of the Local Plan states that development on land known or likely to be contaminated or affected by adjacent or related contamination must be accompanied by the findings of a detailed site examination to identify contaminants and the risks that these might present to human health and the wider environment. Appropriate measures to reduce, or eliminate, risk to building structures, services and occupiers of the site and of adjoining sites must be agreed. Such remedial measures must be satisfactorily implemented before the development is occupied.

Paragraph 183 of the NPPF states that planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This

includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation).

b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and

c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Paragraph 184 advises that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rest with the developer and/or landowner.

The site was excavated as a chalk pit, which was later used as a landfill site between 1977 and 1982 taking mainly inert waste, with some slow degradable matter, putrescible and difficult waste and non-specialist liquid waste. Approximately 600,000 tonnes were deposited, and the landfill was not lined or engineered in any way.

A Desk Study, Preliminary Ground Investigation and Risk Assessment Report was submitted with the planning application.

The applicant advised that with the exception of potentially elevated concentrations of petroleum hydrocarbons the intrusive site investigation has not identified any significant soil contamination with regard to the proposed end use of the site. Further investigation is required to assess the potential risk from petroleum hydrocarbons, as well as further sampling and analysis for both the reuse of soils on site (re the capping/inert landfill material) and any off-site disposal of material. This can be included as a condition on the planning permission.

The applicant also stated that land gas, leachate and groundwater monitoring is already undertaken on a quarterly basis which is reported to the LPA and environmental health department. Discussions with them indicate that neither they nor the Environment Agency have any specific concerns regarding groundwater beneath the site. A land gas extraction system is already in place across the site. A high level of land gas protection will be required as part of the development.

The applicant concluded that subject to a suitable remediation strategy the former landfill use does not present a barrier to the proposed development.

<u>Groundwater</u>

The Environment Agency originally (26 August 2021) objected to the development because the information submitted with the application did not demonstrate that the risk of pollution to controlled waters is acceptable and can be appropriately managed and recommended planning permission be refused. This was due to the previous use of the proposed development site as a landfill which presents a risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the development site is

located on the Chalk, which is classified as a Principal aquifer and lies within Source Protection Zone (SPZ 2).

Based on the concerns raised by the Environment Agency about an inadequate risk assessment, lack of discussion on the interaction of proposals, piling, drainage and landfill material impacts on the groundwater, they objected to the development and sought an urgent meeting with the developer and their consultants to rectify current poor practice and find a way forwards to avoid any enforcement actions.

However, the Environment Agency outlined the information that would need to be supplied in order for them to consider the application and make further comments.

In response to this (14 December 2021), the applicant's technical team advised that they were in the process of investigating alternative means of managing surface water runoff, along with foul water flows. The applicant submitted a drainage requisition request to Southern Water with a view to establishing an agreement for a new combined surface water and foul connection into the existing system. This approach would significantly reduce the amount of water infiltrating into the underlying geology/landfill aiding in the management of leachate production and risk of contaminant mobilisation. The information provided included Surface and Foul Water Conceptual Plan and Southern Water Asset Plan.

This was followed up by further discussions between the applicant and the Environment Agency, and the submission of additional technical work on 14 April 2022 and 12 August 2022:

- Foundation Works Risk Assessment (Southern Testing, 11th April 2022).
- Controlled Waters Risk Assessment (Southern Testing & ST Consulting, 11th April 2022).
- Updated Drainage Strategy including a conceptual surface water drainage plan (RPS, 7th April 2022).
- Updated Foundation Works Risk Assessment (Southern Testing, 11th August 2022).
- Preliminary Ground Gas Risk Assessment and Mitigation Options (EPG Ltd, August 2022).

Further information was provided by the applicants (24 October 2022) in response to comments made by the Environment Agency (email of 10 October 2022). This had asked for details of a scheme for monitoring groundwater, and contingency plans for if the monitoring indicates an impact has occurred, as well as further details on the proposed drainage design in respect of ensuring the stability of the attenuation tanks to ensure no leakage down into the fill materials.

In relation to groundwater, a further technical note prepared by Southern Testing was submitted. This provided details of the location and specification of proposed groundwater monitoring wells. Monitoring is proposed prior to the commencement of development, to provide a baseline for the groundwater quality and flow; during construction and for a period after completion. During construction contingency plans would be put in place in the event of a breach in the agreed warning level including,

where a review indicates the likely cause of the impact is the construction, pausing the building works.

The applicant also advised that in respect of the foul drainage, they have agreement from Southern Water for a new connection to their sewer. In respect of surface water, the applicant has the deep bore soakaway design into the land west of the site, outside the fill area. However, the applicant has also been discussing with Southern Water whether they can discharge surface water into their asset, along with the foul. They will only allow that if the flow is attenuated to 0.3L per second. The applicant advised that they have shown that to be viable and were waiting for written confirmation that a combined foul and surface water connection can be made to their sewer. This option would mean no infiltration on or adjoining the tipped area.

In respect of ensuring the attenuation tanks are leak proof, to avoid any potential impact on the tipped material, the applicant is proposing that they would be double-skinned and enclosed in a low permeable material such as bentonite slurry, to inhibit any potential infiltration into the waste. The precise details/specification can be provided through a condition requiring the detailed drainage design to be submitted for approval prior to the commencement of the development.

In further comments dated 11 November 2022, the Environment Agency maintained their objection, requesting additional details, including some broad outline drawings of the attenuation tank and drainage installations, a generic piling risk assessment, that covers management of risk of additional release of leachate, as well as prevention of surface water influx during construction and a firmer proposal on groundwater monitoring program and contingency actions.

The Environment Agency also requested drawings and protocols showing how the proposed ground water monitoring boreholes through fill materials can be installed safely and asked for safe drilling protocols to be submitted.

In response, on 16 December 2022, the applicant provided the following additional information:

- Attenuation Storage Profile Plan.
- Outline Remediation Strategy ref. 1962LID rev C.

Subsequently, the applicant and the Environment Agency had a meeting on 12 January 2023. The Environment agency confirmed on 18 January 2023 that they maintained their objection, but once their remaining comments/concerns below were addressed should be in a position to remove their objection and provide suitable conditions for the planning application.

The outstanding comments were as follows:

“Piling and Groundwater Monitoring

The choice of piling method was raised. Please can you confirm the reasons for the chosen piling method and why a non-driven method was not deemed suitable?

It is acknowledged the fill material is highly heterogeneous. It is therefore not possible to provide assurances that pockets of perched leachate will not be intersected during piling, nor that the driving of piles will not create pathways for leachate to infiltrate into the aquifer and impact the public water supply.

The applicant has indicated their proposed method of piling will prevent this by sealing against lower permeability (the 'daily cap') layers located through the waste column, although it has not been confirmed this exists as coherent layers within the fill. It has further been suggested that the piling method will create lower permeability material within the chalk directly adjacent to the pile. Neither of these points can be confirmed and as such, monitoring becomes critical.

It was noted that groundwater flow directions are not well characterised. It was acknowledged that the impact from pumping at the Strood abstraction, or from tidal influences, on groundwater flow directions was unknown (based on data obtained from previous investigations). This has important implications for the site conceptual model and risk assessments and should be addressed prior to development.

This would likely require the sinking of additional boreholes to those presented in the controlled waters risk assessment or foundation works risk assessment. If the principal flow direction is towards the abstraction during periods of pumping, the current borehole proposals may not be sufficient.

Monitoring is proposed prior to, during, and post construction. It is understood there is an agreement in principle to drill on third party land. Monitoring in these locations will be critical, and as such we require assurances these boreholes will be accessible for monitoring for a suitable time post-piling, provisionally for at least one year.

With regards to a contingency plan, although we appreciate that baseline monitoring has yet to be undertaken, this is not deemed necessary to provide an outline plan should any future trigger/alert values be exceeded. Please can you provide an outline contingency plan, or provide justification as to why you feel the impact from piling would not warrant any action?

Surface Water Drainage

It is now understood that no infiltration of surface water is proposed at this site. Instead, all surface water will be discharged to the local Southern Water sewer at a controlled rate. It is understood this has been agreed with Southern Water. An attenuation tank is proposed, and we have seen plans that indicate it will be placed inside a bentonite (or similar) seal, thus further preventing infiltration. The tank will be supported by a number of piles driven into the chalk bedrock. We have no objection in principle to these proposals, contingent on the piling comments above being addressed and agreed with us and Medway Council.

Waste Material / Reuse

A certain amount of site reprofiling is required to allow the proposed development. An outline remediation strategy has been submitted, which indicates some of the landfill capping materials are to be cut and reused in fill areas. This will be undertaken under

the Definition of Waste Code of Practice is (DoWCoP) and require the deployment of a Materials Management Plan. It was noted that current waiting times for permit applications are considerable, and that this should be taken into consideration for the overall project timeline. We have no objection in principle to these proposals.

Landfill Gas

Landfill gas management was mentioned, although it is noted this is outside our remit for historical landfills. It is recommended that all necessary requirements about gas are submitted to and addressed by the Environmental Health department at Medway Council."

In response to the above, in an email dated 24 January 2023, the applicant referred the EA to the Piling Technical Note which was sent to Medway and the EA in November 2021 to provide the requested clarification in relation to the reasons for the chosen piling method and why a non-driven method was not deemed suitable. Correspondence was also provided from the current adjacent landowner confirming that he does not object to the positioning of the additional groundwater monitoring boreholes in the locations roughly marked, which has been refined in the submitted proposal. The query regarding landfill gas is dealt with separately below.

In response, the Environment Agency confirmed (email dated 24 January 2023) that based on all discussions, and the content of the documents they have reviewed, they were now in a position to remove their initial objection. As indicated in various reports, further information will be required at detailed planning submission, particularly in relation to monitoring and contingency associated with piling activities.

The Environment Agency formally confirmed (16 February 2023) that they have no objection to the proposal providing the conditions that they requested are included. As indicated in various reports, further information will be required at detailed planning submission, particularly in relation to monitoring and contingency associated with piling activities.

In relation to the condition requested relating to the strategy to deal with potential risks associated with any contamination of the site, it is noted that the 'Desk Study, Preliminary Ground Investigation and Risk Assessment' (Southern Testing, ref J14150, 2nd October 2019) and 'Outline Remediation Strategy' (Vertase FLI, ref 1962LID RevB, December 2022) satisfy parts 1 and 2 of this condition. A remediation strategy and verification plan should be submitted to satisfy parts 3 and 4.

The Environment Agency advised that they have had extensive correspondence with the applicant to ensure the proposed activities do not pose an unacceptable risk to groundwater by mobilising contamination within the landfill.

The Environment Agency also provided informatives regarding piling, boreholes, surface water drainage and waste, that the applicant will need to adhere to.

Landfill gas

The Environment Agency's initial response advised that there has historically been landfill gas accumulation issues at the site as a result of fill materials degrading and that control mechanisms are present at the site to mitigate gas build up on the site and on the adjacent linked Landfill (Diggerland). Risks to other properties in Roman Way, in Cuxton Pit 3 and the railway would also need assessing, as any development, as proposed, could significantly alter the risks of landfill gas migration. The status of these should be confirmed and discussed in detail with the EA and Medway Council, to establish if there are any concerns from a human health perspective for the development site and any impacts on adjacent premises.

The site investigation report submitted with the application (Southern Testing report J14150 2 October 2019) recorded that there is some petroleum hydrocarbon contamination present and as a result further investigation should be carried out. The main issue is landfilling gas as the site is over a gassing landfill and further monitoring is recommended to assess the gas protection measures which would need to be put in place should the application be approved.

A substantial investigation has been carried out, but as further sampling is recommended, and gas protection measures need to be assessed according to the gas regime it is recommended that a land contamination condition be attached to any permission.

The additional documents submitted have been reviewed, including the Vertase FLI outline remediation Strategy (December 2022) and it is noted that a separate gas risk assessment is to be prepared and submitted. The report does state that remediation will take into consideration gas management, existing extraction systems and infrastructure as well as lateral migration (sections 3.1 and 6 – Remediation Works). Following the latest information, along with the previous EPG Preliminary ground gas risk assessment (August 2022) and the proposal to carry out a further ground gas risk assessment, it is considered that further gas/contamination issues can be dealt with through conditions. It was also noted that it will be useful to know when the further gas risk assessment is likely to be produced and submitted.

Conclusion to Contamination Section

During the course of determining the application, the applicant has produced a significant amount of additional technical work, which has been discussed and agreed with the Environment Agency and Medway Council's Environmental Protection Officer. Subject to the imposition of the suggested conditions, no objection is raised under Policy BNE23 of the Local Plan and Paragraphs 183 and 184 of the NPPF 2021.

Ecology

Policy BNE37 of the Local Plan relates to Nature Conservation outside of Designated Sites. Policy BNE38 of the Local Plan is concerned with the provision of wildlife habitats in new developments that link into wider wildlife networks. Consistent with the statutory duties Policy BNE39 of the Local Plan relates to protected species and states that *"development will not be permitted if statutorily protected species and/or their*

habitats will be harmed" and requires conditions or obligations to be attached to permissions to *"ensure that protected species and/or their habitats are safely guarded and maintained."*

Paragraph 180 of the NPPF 2021 states that *"if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."*

The applicant submitted a Preliminary Ecological Appraisal to accompany the application (RPS, June 2021).

The Kent County Council Ecologist advised that having reviewed the ecological information, additional information would be required prior to determination of the planning application.

The submitted Preliminary Ecological Appraisal detailed that the site has the potential to be open mosaic habitat in previously developed land (a Habitat of Principle Importance) and reptiles, breeding birds, hedgehogs and foraging bats to be present. The ecological report has recommended that there is a need for a botanical survey to assess if the site meets the criteria to be classed as a habitat of principal importance - Impacts to habitats of principal importance / BAP priority habitats are: "Capable of being a material consideration in the…making of planning decisions." (Paragraph 84, Government Circular (ODPM 06/2005)). Therefore, there is a need for the recommended survey and details of any mitigation required to be submitted, prior to determination, to enable Medway Council to fully understand if the proposal will result in the loss of a habitat of principal importance if appropriate mitigation can be implemented.

The Kent County Council Ecologist agreed with the conclusions that there is no requirement for breeding bird, hedgehog or bat surveys to be carried out however clarification was requested in relation to the need for reptile surveys.
As noted earlier in this report, the Kent County Council Ecologist identified that the proposed development is directly opposite Cuxton Pit No. 3, Strood Local Wildlife Site (LWS) and no information has been providing assessing the impact the operational phase of the proposal will have on the LWS. As detailed within the report the proposal will result in an increase in lighting therefore information must be submitted assessing the operational impact on the designated sites.

The applicant submitted a response to the comments, including a Reptile Survey Report.

In terms of the Open Mosaic Habitat (OMH), an area of 0.66ha was found on the site, and all of this will be lost to facilitate the development. As this is a UK Biodiversity Action Plan (BAP) habitat, suitable mitigation is required for its loss. The Council's preference was for this to be translocated to a nearby site, and both the applicant and Officers engaged in an exercise to try and locate a suitable location for its translocation. While it was initially thought that this could be incorporated at Temple Marsh, this has now been discounted as an option. As an alternative, it has been

agreed that the applicant can make a payment as mitigation for the loss of OMH on site.

Due to the loss of open mosaic habitat on the development site, an environmental mitigation contribution is required to offset the loss of this important habitat. This environmental mitigation contribution will be for habitat creation/enhancement, including but not limited to: Open Mosaic Habitat, Grassland and/or Grassland/Scrub mix.

The environmental mitigation contribution will used be for:

- Monitoring / surveying of Medway Council land to identify which sites require enhancement or suitability for habitat creation.
- Costs associated with management plan reviews/updates to all types of habitats within the vicinity of the site (not restricted to open mosaic habitat, grassland and grassland/scrub mix).
- Capital works to create/enhance the recommended habitats.
- Costs of ongoing management costs of existing, enhanced and created habitats for a 15-year period.

The amount of contribution of £28,620 has been agreed, based on the estimated cost of recreating an equivalent area of OMH elsewhere plus monitoring /reporting costs. The KCC Ecologist's view is that the money is for the enhancement for biodiversity as a whole, not the creation of open mosaic habitat.

The applicant has agreed to complete a Unilateral Undertaking to pay this contribution. The Reptile Survey confirmed that there are common lizards and slow worms within the site, and they were recorded within the NW and SE boundary and within the centre of the site.

Suitable reptile habitat will not be recreated on site following the development, and the proposal will result in a loss of suitable reptile habitat. A condition is therefore recommended that requires a detailed reptile mitigation strategy to be submitted and approved, which must include details of the mitigation required, the location of the reptile receptor site and details of management of the reptile receptor site.

Additional information was also provided by the applicant in terms of lighting and the potential impact on Cuxton Pit No. 3, Strood Local Wildlife Site. The submitted lighting plan details that the anticipated light spill will be less than 0.1lux on the road between the proposed development and the LWS. Therefore, the KCC Ecologist agrees that the lights associated with the proposal are unlikely to result in a significant negative impact on the LWS.

Subject to the imposition of the reptile mitigation strategy condition and securing the contribution towards mitigating against the loss of Open Mosaic Habitat on the site, the development will avoid any irreversible detrimental impact on protected species, and therefore accords with Policies BNE37, BNE38 and BNE39 Medway Local Plan 2003.

Air Quality

Paragraph 186 of the NPPF outlines that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan. Policy BNE24 of the Local Plan outlines when an application requires an assessment of the likely impact of emissions and goes on to outline that development will not be permitted when it is considered that unacceptable effects will be imposed on the health, amenity, or natural environment of the surrounding area, taking into account the cumulative effects of other proposed or existing sources of air pollution in the vicinity.

The application is supported by an Air Quality Assessment (dated April 2021). The Air Quality Assessment (AQA) assessed any likely air quality impacts upon any local sensitive receptors as a result of the construction and/or operation of the proposed new store.

The AQA sets out the mitigation measures that are likely to be required during the construction phase. In relation to the operational phase, the AQA advises that the predicted net traffic increase associated with the operation of the proposed new store is unlikely to result in a detrimental pollution impact upon the local road network and the current pollution levels. Therefore, it is not anticipated that mitigation measures will be required. In terms of building emissions, any operational plant effects should be reviewed and assessed, if required, at the appropriate stage, when all the required detailed plant technical information is available.

Subject to the recommended conditions relating to EV vehicle charging points, CEMP and air quality emissions mitigation statement, the proposal is in accordance with Policy BNE24 of the Local Plan and paragraph 186 of the NPPF.

Flood Risk and Surface Water

Policy CF13 of the Local Plan outlines development will not be permitted within a tidal flood risk area if, among other things, it harms the integrity of the flood defences, or it fails to provide for a means of escape for people in the event of a flood.

The NPPG provides more detail and confirms that a sequential test should be applied to development proposed in areas at risk of flooding but will not be required where the site is in an area at low risk from all sources of flooding unless the Strategic Flood Risk Assessment, or other information, indicates there may be a risk of flooding in the future.

Paragraph 167 of the NPPF states that:

“When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.”

The footnote to paragraph 167 identifies that site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

Paragraph 169 advises that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

a) take account of advice from the lead local flood authority.
b) have appropriate proposed minimum operational standards.
c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
d) where possible, provide multifunctional benefits.

The NPPG provides more detail and confirms that a sequential test should be applied to development proposed in areas at risk of flooding but will not be required where the site is in an area at low risk from all sources of flooding unless the Strategic Flood Risk Assessment, or other information, indicates there may be a risk of flooding in the future.

The Lead Local Flood Authority (LLFA) has been consulted on this proposal and has commented as follows in terms of flood risk. This response is based on review of the submitted Flood Risk Assessment and Conceptual Sustainable Drainage Strategy (RPS, revision 1, June 2021):

"The application site lies within Flood Zone 1 as recognised by the most up to date mapping from the Environment Agency. The council have no records of flooding affecting the site.
The proposed drainage scheme relies on the use of soakaways. The site currently has existing soakaways which have been investigated and deemed as an acceptable method of surface water discharge. However, infiltration testing is required to be carried out in line with BRE365 to ensure that infiltration at the site is acceptable. Additionally, confirmation shout be sought from the Environment Agency to ensure that there would be no reasons which would preclude the use of infiltration at this site. Additionally, the site represents an opportunity for the use of rainwater harvesting such as water butts. Permeable paving has not been considered as suitable for the site due to vehicle movements however, we would expect that is included within an application of this type. Additionally, to ensure that water quality requirements are met at the site, further SuDs features such as catchpits to remove contamination will be required.

It should be ensured that the drainage calculations account for drainage of the entire developable site, and not just the impermeable areas.

A maintenance regime will need to be submitted for each of the SuDs elements during the detailed design stage to reflect the eventual scheme and to ensure that the information is passed on to an eventual Service Management Company.

A plan needs to be submitted detailing the management of surface water throughout the construction phase from entering the site and removal of topsoil to the completion of the development. This is added as a separate condition considering the likely planning timeline. The plan should outline the phases of construction showing where and when drainage features will be installed and how runoff will be managed, to minimise flood risk and water quality impacts on site and to the surrounding areas. The plan should reference when the drainage will be installed with regards to houses, roads and any other hard standing (any drainage should be installed prior to these)."

The applicant submitted a site-specific Flood Risk Assessment and Drainage Strategy (dated 1 June 2021), as required in accordance with paragraph 167 of the NPPF. This had regard to the Council's Strategic Flood Risk Assessment 2006 and Strategic Flood Risk Assessment Addendum 2011.

The Flood Risk Assessment confirmed that the site is at low risk of flooding from all sources. However, in line with standard building practices and as a precautionary measure, it is recommended that floor threshold levels are raised a minimum of 150mm above external ground levels, where feasible. This will provide a degree of mitigation should overland flow occur.

The sequential test does not need to be applied in this instance as the site is in an area at low risk from all sources of flooding.

Taking account of the LLFA comments, subject to the recommended conditions in respect of surface water drainage, the proposal is considered to be in accordance with Policy CF13 of the Local Plan and paragraph 167 of the NPPF.

Conclusions and Reasons for Approval

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

The application is not located within a core retail area, nor within any other area allocated for retail use. The Sequential Test included within the Planning and Retail Statement has been considered having regard to the provisions of (i) – (iii) of Policy R13 of the Local Plan, and Paragraphs 81 and 87 of the NPPF

It is considered that the identified sites within the retail areas of Strood and Rochester have been appropriately assessed and it is concluded that there are no sites within the core retail areas of Strood or Rochester that would be suitable or available for the development proposed.

With regard to the provisions of Policy R13 (iv) – (vii) of the Local Plan, although it is concluded there is no requirement to submit a retail impact assessment, a high level consideration of potential impact is provided which concludes that given the size and

type of the proposal, it would not undermine vitality and viability of existing centres, Local Centres, Villages or Neighbourhood Centres; additionally, the location enables access by a range of transport, including public transport; and some trips would be likely passing by from other trips.

In considering the sequential assessment and the impact to town centre vitality and viability, the proposal is in accordance with the criteria of Policy R13 of the Local Plan as well as paragraphs 90 and 91 of the NPPF.

Detailed assessment has been undertaken of the acceptability in terms of design and appearance and landscaping of the site, and in terms of any potential impact on amenity. The application has also been assessed in terms of highways considerations and ecology, air quality and flood risk.

Particularly careful assessment has been undertaken in conjunction with the Environment Agency to ensure the proposed activities do not pose an unacceptable risk to groundwater by mobilising contamination within the landfill.

The proposal is considered to comply with Policies BNE1, BNE2, BNE23, BNE24, T1, T2, T4, T13, T14 and CF13 of the Local Plan and paragraphs 104(a), (b) and (c), 108, 110, 111, 112(e), 113 126, 130,159, 161, 167,169,183 and 186 of the NPPF.

The application complies with the development plan as a whole and there are no material considerations of sufficient weight which indicate that permissions should not be granted. The scheme therefore is recommended for approval.

The application is being referred to Planning Committee for determination due to the extent of the representations received expressing a view contrary to the recommendation.

Background Papers

The relevant background papers relating to the individual applications comprise: the applications and all supporting documentation submitted therewith; and items identified in any Relevant History and Representations section within the report.

Any information referred to is available for inspection in the Planning Offices of Medway Council at Gun Wharf, Dock Road, Chatham ME4 4TR and here http://publicaccess1.medway.gov.uk/online-applications/